

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHEASTERN DIVISION

	§	
UNITED STATES OF AMERICA,	§	
Plaintiff, Respondent,	§	
	§	
v.	§	Docket No. _____
	§	
CHARLES WILLIAM CARLTON,	§	
Prisoner No. 73143-279,	§	
Bastrop, FCI,	§	
Movant.	§	
	§	
	§	

MOTION UNDER 28 U.S.C. §2255 TO VACATE, SET ASIDE, OR CORRECT
A SENTENCE BY A PERSON IN FEDERAL CUSTODY

I. SUBJECT OF THIS PETITION

A. Name and location of the court that entered the judgment of conviction that you are challenging

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NORTH DAKOTA

SOUTHEASTERN DIVISION. FARGO, ND

B. Criminal docket or case number 3:12-cr-119-01C. Date of the judgment of conviction September 3, 2014D. Date of sentencing August 28, 2014E. Length of sentence 246 monthsF. Nature of crime (all counts) Conspiracy to PWID CS Analogue and Money Laundering

G. What was your plea? (Check one)

☐

Not guilty

☒

Guilty

☐

Insanity plea

☐

Nolo contendere (no contest)

If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to?

H. If you went to trial, what kind of trial did you have? (Check one)

☐

Jury

☐

Judge only

I. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☐

Yes

☒

No

If yes, state the type(s) of hearing or proceeding

J. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?

☒

Yes

☐

No.

SUBJECT OF THIS PETITION - continued

K. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging?

☐

Yes

☒

No

II. DIRECT APPEAL OF CONVICTION

A. Did you appeal the judgment of conviction?

☐

Yes

☒

No

If yes, attach the decision(s) that resolved your appeal and answer the following questions:

1. Name of court of appeals _____

2. Date of filing appeal _____

3. Grounds raised _____

4. Result _____

5. Date _____

B. Did you file a petition for certiorari in the United States Supreme Court?

☐

Yes

☒

No

If yes, attach the decision(s) that resolved your petition for certiorari and answer the following questions:

1. Date of filing petition for certiorari _____

2. Grounds raised _____

3. Result _____

4. Date _____

III. POST-CONVICTION RELIEF OTHER THAN DIRECT APPEAL

- A. Other than the appeals listed above in Section II, have you previously filed any other federal petitions, applications, or motions concerning **the** federal judgment that you are now challenging?

☐ Yes ☒ No

If yes, attach the decision(s) that resolved your application for federal post-conviction relief and answer the following questions:

1. Name of court _____
2. Docket or case number _____
3. Date of filing _____
4. Type of petition, application, or motion filed _____
5. Grounds raised _____

6. Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No

7. Result _____

8. Date _____

9. Did you appeal your first federal petition, application, or motion to a federal appellate court?

☐ Yes ☒ No

10. If you did not appeal, explain why not:

- B. If you filed a second federal petition, application, or motion, attach the decision and answer the following questions:

POST-CONVICTION RELIEF OTHER THAN APPEAL - continued

1. Name of court _____
2. Docket or case number _____
3. Date of filing _____
4. Type of petition, application, or motion filed _____
5. Grounds raised _____

6. Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No

7. Result _____

8. Date _____

9. Did you appeal your second petition, application, or motion to a federal appellate court?

☐ Yes ☒ No

10. If you did not appeal, explain why not:

- C. If you filed a third federal petition, application, or motion, attach the decision and answer the following questions:

1. Name of court _____
2. Docket or case number _____
3. Date of filing _____
4. Type of petition, application or motion filed _____

POST-CONVICTION RELIEF OTHER THAN APPEAL - continued

5. Grounds raised _____

6. Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No

7. Result _____

8. Date _____

9. Did you appeal your third petition, application, or motion to a federal appellate court?

☐ Yes ☒ No

10. If you did not appeal, explain why not:

IV. GROUNDS FOR RELIEF

For this motion, state every ground supporting your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. If you fail to do so, you may be prevented from presenting additional grounds at a later date.

Attach additional pages if you have more than four grounds. State the facts supporting each ground.

Ground One Please reference attached memorandum.

Supporting **FACTS** *(Briefly summarize the facts without citing cases or law.)*

Please reference attached memorandum.

GROUND FOR RELIEF - continued

Ground Two Please reference attached memorandum.

Supporting **FACTS** *(Briefly summarize the facts without citing cases or law.)*

Please reference attached memorandum.

GROUND FOR RELIEF - continued

V. REPRESENTATION

Give the name and address of each attorney who represented you in the following:

1. At preliminary hearing Terry Gaiser Houston, Tx

2. At arraignment and plea hearing Terry Gaiser Houston, TX

3. At trial A trial did not take place.

4. At sentencing Alexander Reichert Grand Forks, ND

5. On direct appeal A direct appeal has not been filed at this time.

6. In any federal post-conviction proceeding Not applicable.

7. On appeal from any ruling against you in a federal post-conviction proceeding
Not applicable.

VI. REQUEST FOR RELIEF


State exactly what you want the court to do for you.

Allow for a direct appeal to be filed, appoint new counsel,
grant an evidentiary hearing to determine factual issues, if
necessary, and correct the sentence, if warranted.

VII. DECLARATION UNDER PENALTY OF PERJURY

I, the undersigned, hereby declare under penalty of perjury that the foregoing information is true and correct.

Signed this 12th day of August, 20 15.



Signature of Movant

(Signature of lawyer, if any)

If you are signing the motion and are not the movant, state your relationship to the movant and explain why the movant is not signing this motion.

VIII. CERTIFICATE OF INMATE MAILING - Optional

If you deposit your motion under 28 U.S.C. § 2255 to vacate, set aside, or correct your sentence in your prison/institutional/jail mailing system and attach first-class postage pre-paid, and complete and sign this statement, you will establish the filing date as the date of deposit in that mailing system.

I, the undersigned, hereby declare under penalty of perjury that I placed this motion to vacate, set aside or correct federal sentence under 28 U.S.C. § 2255 in the prison/institutional/jail mailing system with a prepaid, first-class postage on August 12, 2015.
(month, day, year)

Signed this 12th day of August, 2015.



Signature of Movant